

Frequently Asked Questions Concerning the New Jersey Release and Pollution Prevention Report & Pollution Prevention Program

Q: Who is required to prepare a Pollution Prevention (P2) Plan and submit a Release and Pollution Prevention Report (RPPR) and a Plan Summary?

A: Any “employer” (N.J.A.C. 7:1G-1.2) or any “priority industrial facility” (N.J.A.C. 7:1K-1.5) that is subject to the reporting requirements of the federal Emergency Planning and Community Right to Know Act of 1986 (EPCRA), Section 313, the Toxic Chemical Release Inventory (TRI), is subject to the preparation of a Pollution Prevention Plan and submission of a Release and Pollution Prevention Report (RPPR) and a Pollution Prevention Plan Summary.

[N.J.A.C 7:1K-3.1 and 7:1G-4.1(a)]

The facility must report on the RPPR and include in their P2 Plans and Plan Summaries any TRI substances that reach the NJ threshold, which is 10,000 pounds. (Note: the NJ threshold only applies once the federal threshold has been reached.)

[N.J.A.C 7:1K-3.4(a) and 3.5(a) and 7:1G-4.1(b)]

Q: If I submit a TRI Form A to USEPA, do I have to prepare a P2 Plan and submit an RPPR and a Plan Summary?

NOTE: USEPA's Form A alternate threshold does not apply to PBTs.

A: Facilities that submit annual Form As with the USEPA for substances that meet the 500 pound NPO threshold and are manufactured, processed, or otherwise used below one million pounds annually, are still subject to New Jersey pollution prevention planning and reporting requirements for all hazardous substances manufactured/processed/otherwise used over threshold, with the following exception.

Hazardous substances are exempt from pollution prevention planning if the **sum** of the amount of the hazardous substance generated as NPO and shipped in product is 500 pounds or lower, as indicated on Section B of the most recent Release and Pollution Prevention Report (RPPR). These substances are still required to be included in Sections A and B of the RPPR but are exempt from P2 Planning (i.e., P2 Plan, Plan Summary and Progress Report Sections C & D or P2-115.)

[N.J.A.C 7:1K-3.1(h)]

Q: If USEPA adds new hazardous substances or lowers the threshold of existing substances on the TRI list or if I start to manufacture, process or otherwise use above threshold quantities any additional hazardous substance already on the list, must I modify my RPPR, P2 Plan and Plan Summary?

A: Facilities are required to include substances in Sections A and B of their RPPRs by July 1 of the year after they went above threshold (i.e., the reporting year). The Plan and Plan Summary may have to be modified if the substance is still above threshold the **second** reporting year, following the guidelines listed here:

If a hazardous substance is involved in a targeted process:

(Note: processes with PBTs must be targeted.)

Facilities are required to modify their P2 Plans and submit Plan Summary revisions by July 1 of the **second** reporting year. Progress Reports (P2-115 or Sections C and D) are to include these substances by July 1 of the **third** year.

EXAMPLE:

A facility begins manufacturing or using a new hazardous substance above threshold in 2005.

By July 1, 2006, Sections A and B of the RPPR must include the new substance.

By July 1, 2007, the P2 Plan and Plan Summary must be revised to include the new substance and the Plan Summary must be resubmitted (**and** the substance must be reported in Sections A and B only of the RPPR).

By July 1, 2008, the new substance must be in all sections of the RPPR (A, B and P2-115 or C and D).

If a hazardous substance is involved in a non-targeted process:

Facilities may modify their P2 Plan and Plan Summary, according to the above schedule, but are not required to do so. A facility may retarget its processes but is not required to do so. (Except for processes containing PBTs.)

[N.J.A.C. 7:1K-3.9(a-c), (g)]

Q: If I add any hazardous substances to my P2 Plan after I did my original Plan, do I use my original base year? Should I establish a new five-year goal or stay within the planning cycle?

A: For hazardous substances added to the P2 Plan after the original Plan was done, the base year should be the year **after** the facility went above the manufacture/process/otherwise use threshold for that substance. Do not use the original base year from when the Plan was done for these added substances. For example, if a facility prepared a base year 2003 Pollution Prevention Plan, it would be for those substances present in 2003 at the facility above the threshold. If that facility then went above threshold in 2005 for either a newly listed substance or one that was already on the list, revisions should be done to the P2 Plan and Plan Summary for that substance using 2006 as a base year.

For consistency purposes, your facility must stay within the five year planning cycle established during the preparation of your original P2 Plan. Do not set up different five-year planning cycles for different hazardous substances, or create a new Plan; instead, use a shorter cycle for the newly added substance.

Q: If my facility goes below the threshold for manufacture, process or otherwise use of a hazardous substance, or the substance is deleted from TRI or Appendix A of the P2 Rules, do we still need to keep that substance in the P2 Plan and Plan Summary?

A: In this situation, a company must notify the Department in writing of such change and the reason for the change before July 1 of the year following the change in status. If the substance is expected to come back above threshold, the substance should stay in the P2 Plan and Plan Summary, maintaining the same base year. If, however, the substance is below threshold due to its elimination or phasing out, it should be removed from the P2 Plan and Plan Summary. If a facility falls below threshold for all hazardous substances regulated under the P2 Rules, it is no longer subject to

pollution prevention planning; however, the facility still must notify the Department in writing prior to July 1 of the year following the change in status.

[N.J.A.C. 7:1K-3.9(d-f)]

Q: If my facility adds a new process line after already preparing a P2 Plan do we have to do planning for that new process?

A: Owners/operators of facilities have to add Part IA information to its P2 Plan and to submit Plan Summary revisions to the Department the **second** reporting year. For example, if a facility brings on a new process line in March 2005, it has until July 1, 2007 to modify its P2 Plan. Facilities have until the five-year revision to add Part II information to the P2 Plan, submit a revised Plan Summary to the Department and begin reporting Part IB information about pollution prevention progress on the annual Release and Pollution Prevention Report.

EXAMPLE:

A facility adds a new process line in 2005.

By July 1, 2006, Sections A and B of the RPPR must include any new substances from that process that are above threshold.

By July 1, 2007, the P2 Plan and Plan Summary must be revised to include the new process and the Plan Summary must be resubmitted.

Q: Are there any other situations that would trigger modifications to my facility's Pollution Prevention Plan?

A: If one or more of the following actions occur, a facility is required to modify its P2 Plan and Plan Summary by July 1 of the calendar year following the year in which the changes occurred:

- Ceases operation of a targeted production process or significantly expands the operation of a targeted production process;
- Significantly modifies a targeted production process, unless due to implementation of pollution prevention techniques at the industrial facility;
- Reclassifies an existing nonproduct output as a product, intermediate, or co-

product;

- Modifies a grouping decision that affects a targeted process; or
- Modifies a targeting decision.

[N.J.A.C. 7:1K-3.9(a)]

If any of these changes occur, the facility is required to review the following information as it applies to targeted processes and amend the Plan and Summary:

- Facility-level inventory data required in Part IA of a Pollution Prevention Plan;
- Process-level inventory data required in Part IA of a Pollution Prevention Plan;
- Facility-level and process-level pollution prevention reductions required to be recorded in Part IB of a Pollution Prevention Plan or reported in a Release and Pollution Prevention Report;
- Process-level pollution prevention reductions required to be recorded in Part IB of a Pollution Prevention Plan or reported in a Release and Pollution Prevention Report;
- Five-year pollution prevention goals required in Part II of a Pollution Prevention Plan and in a Pollution Prevention Plan Summary;
- Description of targeted production processes required in Part II of a Pollution Prevention Plan and in a Pollution Prevention Plan Summary;
- Planned pollution prevention options required in Part II of a Pollution Prevention Plan;
- Implementation schedules for pollution prevention options required in Part II of a Pollution Prevention Plan.

[N.J.A.C. 7:1K-3.9 (b)]

Q: Should the previous year production ratio reported in Section C be identical to the ratio reported on the Form R under TRI?

[NOTE: the RPPR now requires two different production ratios: from the base year and from the previous year. The TRI only requires the production ratio from the previous year.]

A: These numbers may be the same. Under federal EPCRA, facilities are required to account for the use, manufacture and processing of all listed substances for the entire facility, including pilot plants. Under the NJ Pollution Prevention Act, research and development laboratory activities and pilot plant activities are exempt from planning and reporting. As such, a facility may report a different production ratio on the federal Form R and on the state Release and Pollution Prevention Progress Report (Section C of the RPPR). Also, the production ratio on the RPPR uses weighting factors to account for substances in more than one process, unlike the federal production ratio.

Note: The facility also has the option of submitting P2-115s in lieu of Sections C and D of the RPPR. If the P2-115 option is chosen, the online program will calculate production ratios.

[N.J.A.C. 7:1G-3.4(b)]

Q: How will adding a new production process or discontinuing one affect my facility's production ratio?

A: It should not affect your production ratio. The instruction booklet for the Release and Pollution Prevention Report presents formulas for calculating production ratios. If you use these formulas and accurately calculate your weighting factors, the production ratio should not change. Remember to use the weighting factors from your base year measurement to calculate the production ratio. If you use weighting factors from a year other than the base year, you will get an inaccurate calculation of pollution prevention progress. *Note: If the facility chooses the option of submitting P2-115s in lieu of Sections C and D of the RPPR, the online program will calculate production ratios using these weighting factors in the formula.*

Q: What are the procedures and reporting requirements when a previously regulated facility splits into two or more new facilities?

A: The two or more new facilities become separate reporting entities, and each new entity must evaluate the criteria for program coverage. The following scenarios may occur:

1. If one of the new entities meets the criteria, and is essentially the same as the original entity, any updates in facility name, certifications, etc., must be made, but the five-year process of the P2 Plan is not disrupted.
2. If a new entity meets the criteria, and is different from the original entity, it

must submit Sections A and B of the Release and Pollution Prevention Report by July 1 of the year following the first reporting year that it exceeds thresholds. It must then prepare a P2 Plan and submit a Plan Summary by the following July 1, and submit all sections of the RPPR by July 1, in subsequent years of the five-year P2 planning cycle. Any parts of the P2 Plan from the original entity that are still applicable may be incorporated into the P2 Plans of the new entities.

Q: What are the procedures and reporting requirements when two previously regulated facilities merge into one?

A: The new facility becomes a separate reporting entity, and the new entity must evaluate the criteria for program coverage. The following scenarios may occur:

1. If the new entity meets the criteria, and is essentially the same as either of the original entities, any updates in facility name, certifications, etc., must be made, but the five-year process of the P2 Plan is not disrupted.
2. If the new entity meets the criteria, and is different from either of the original entities, it must submit Sections A and B of the Release and Pollution Prevention Report by July 1 of the year following the first reporting year that it exceeds thresholds. It must then prepare a P2 Plan and submit a Plan Summary by the following July 1, and submit all sections of the RPPR by July 1 in subsequent years of the five-year P2 planning cycle. Any parts of the P2 Plans from the previous entities that are still applicable may be incorporated into the P2 Plan of the new entity. The base year for the P2 Plan is the second year of TRI and RPPR reporting.

Q: What is new about the 2005 P2 Rule readoption?

A: In addition to alternate planning threshold issues mentioned above (page 1, question 2), the following changes have been made:

Electronic reporting of the P2 Plan Summary is mandatory beginning with reporting year 2005, except if a facility is making a confidentiality or hardship claim. In the case of a confidentiality claim, the public version is still required to be submitted electronically. (The CRTK rule readoption of 2005 requires mandatory electronic reporting of the RPPR as well.)

All processes or sources at covered facilities that use or generate persistent, bioaccumulative, toxic (PBT) substances above reporting thresholds are required to be targeted for P2 planning by the next planning cycle.

Treatment systems that use hazardous substances or generate NPO not generated elsewhere at the facility are required to be included as separate sources or production processes in a P2 Plan by the next planning cycle. Previously, it was recommended that a facility include them but it was not a requirement.

The new calculation method for determining use is to sum the amount of hazardous substances consumed, shipped off-site as or in a product and generated as nonproduct output (NPO).

A process flow diagram is now required to be included in the P2 Plan by the next planning cycle.

It was clarified that hazardous waste data are required to be included in the P2 Plan annually.

Annual facility-level input and output quantities contained in a P2 Plan are required to be balanced within 5%. (With the exception of ammonia, due to federal reporting requirements.)

Q: How can I get more information about the New Jersey Release and Pollution Prevention Report and the Pollution Prevention Program?

A: You may contact the Office of Pollution Prevention and Right to Know at (609) 777-0518, visit our Web site at www.state.nj.us/dep/opppc, or stop by our offices at 4 Station Plaza, 22 S. Clinton Ave., 3rd Floor, Trenton, NJ. We are happy to provide assistance in understanding and complying with the laws and regulations.

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